

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

MARC S. CASON, SR. #180571 :  
v. :  
UNIVERSITY HOSPITAL :  
: CIVIL ACTION NO. PJM-06-1680  
:

**MEMORANDUM OPINION**

Marc S. Cason, Sr. currently is confined at the Roxbury Correctional Institution. On June 30, 2006, he filed this pro se civil rights action, dated June 19, 2006, pursuant to 42 U.S.C. § 1983, accusing University Hospital medical personnel of malpractice in his mother's death.<sup>1</sup> Plaintiff seeks compensatory and punitive damages. His motion to proceed in forma pauperis will be granted, pursuant to 28 U.S.C. §1915(a).

Plaintiff alleges that his mother died during "routine" open heart surgery. His claim is best described as an action sounding in medical malpractice. A medical malpractice claim can proceed only after the parties complete state review of such a claim before the Maryland Health Claims Arbitration Board. *See generally* Md. Code Ann., Cts & Jud. Proc., §3-2A-01 *et seq.* Plaintiff presents no information showing that state review has occurred.<sup>2</sup> Thus, this Court will dismiss the Complaint without prejudice by way of a separate Order.

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7/12/06

Date

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/s/

PETER J. MESSITTE  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> Plaintiff indicates his mother died on July 2, 2003. Plaintiff filed an identical claim in this Court against another Baltimore hospital on July 11, 2003. That action, construed as a medical malpractice claim was dismissed without prejudice on August 4, 2003, for failure to first proceed before the Maryland Health Claims Arbitration Board. *See Cason v. Mercy Hospital, et al.*, Civil Action No. CCB-03-2056 (D. Md. 2003). The disposition of the earlier case was not appealed.

<sup>2</sup> Furthermore, there is no showing that the parties satisfy the requirement for diversity jurisdiction under 28 U.S.C. § 1332.